

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2011-006385
FC 2012-002442

05/17/2012

HON. PAMELA GATES

CLERK OF THE COURT
V. Stevens
Deputy

ATLAS NO 000382158400
IN RE THE MATTER OF
VANESSA M ASHE

VANESSA M ASHE
13300 N 88TH AVE APT 2102
PEORIA AZ 85358

AND

DEWAL L TUILEFANO JR.

DEWAL L TUILEFANO JR.
4447 W. EARLL DR.
PHOENIX AZ 85051

AG-CHILD SUPPORT-SOUTH
CENTRAL OFFICE
COMM. IRELAND
DOCKET-FAMILY COURT CCC
FAMILY COURT SERVICES-CCC

MINUTE ENTRY

(OCH) Courtroom 301

2:00 p.m. This is the time set for Trial on Mother's Petition to Establish Child Custody, Parenting Time and Child Support. Petitioner/Mother is present, appearing on her own behalf. Respondent/Father is present, telephonically, appearing on his own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Vanessa M. Ashe and Dewal L. Tuilefano are sworn.

Vanessa M. Ashe testifies.

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Dewal L. Tuilefano testifies.

Based upon the testimony presented,

THE COURT FINDS that Dewal L. Tuilefano, is the natural father of the minor child, Noah, born on 2/6/09 to Vanessa M. Ashe.

IT IS ORDERED declaring Dewal L. Tuilefano, is the natural father of the minor child, Noah, born on 2/6/09 to Vanessa M. Ashe.

The parties agree based on Father's medical condition that Father will exercise no parenting time with Noah, unless mutually agreed upon between the parties. In two months from the date of this order, the parties will confer regarding Father's medical condition and determine whether he is able to begin exercising parenting time with Noah. At this time, the parties agree that a parenting time schedule between Father and Noah that is Noah's best interest allows Father to exercise parenting time every Friday at 8:30 a.m. until Sunday at 6:30 p.m. The retrieving parent shall provide the transportation of the minor child. Mother agreed until Father is medically released and able to drive, she will provide the transportation of the minor child, provided that Father compensate her for the increased costs associated with the transportation, which will be mutually agreed upon between the parties, however, no less than \$20.00 per month and no more than \$40.00 per month.

Father's parenting time shall presumptively begin July 20, 2012. If Father is medically unable to exercise his parenting time, he is obligated to provide support for that position directly to Mother.

The Court questions the parties as to their agreement as recited on the record.

Discussion is held regarding the holiday parenting time schedule.

The Court will enter a holiday schedule.

IT IS ORDERED affirming the Establishment Hearing currently scheduled before Commissioner Ireland on June 4, 2012 at 1:00 p.m. **The Court notes** that, Father appeared by phone at the May 17, 2012 Hearing and Mother has no objection to Father appearing by telephone at the June 4, 2012 Hearing. However, if Father requests to appear by telephone, he shall file a Motion with Commissioner Ireland requesting same.

On the Court's own Motion,

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IT IS ORDERED consolidating cause numbers FC2011-006385 and FC2012-002442 under cause number FC2011-006385 for all further proceedings.

LET THE RECORD REFLECT that Mother recites the address she wants her mail delivered to as follows: 5840 W. Rosewood Ln., Phoenix, Arizona, 85031.

IT IS ORDERED that at the time parenting exchanges begin, the drop off locations shall be the respective home of Mother and Father, absent agreement to the contrary.

IT IS ORDERED affirming the parties' agreement to share joint legal custody with Mother having final decision-making authority, in the event of an impasse.

IT IS ORDERED referring this matter to the IV-D Commissioner for all issues related to child support, which include division of the unreimbursed medical costs, the dependency exemption, past support and current support.

IT IS ORDERED taking this matter under advisement.

3:24 p.m. Matter concludes.

LATER:

PATERNITY JUDGMENT

Today is the time set for trial in the above-referenced matter. Petitioner Vanessa Ashe and Respondent Dewal Tuilefano were sworn and offered testimony and other evidence.

The parties testify that they have heard and understood these agreements, that they have voluntarily agreed to these matters and that the agreements are fair and equitable and in the best interest of their minor child. The parties entered a full agreement regarding custody and parenting time, which is set forth below.

Based upon the testimony and evidence presented, the Court makes the following findings, conclusions, and orders:

I. JURISDICTION.

THE COURT FINDS that is Court has jurisdiction over the parties and issues presented as authorized by law; and that the minor child who is the subject of this action lived in Arizona with a parent, or a person acting as a parent, for at least six consecutive months or more prior to

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the commencement of this action, or at least from the time of birth of the child until this action was commenced, such that Arizona is the home state of the child pursuant to A.R.S §25-1031(A)(1).

II. PARENT EDUCATION PROGRAM.

It appears that neither Father nor Mother has completed the Parent Education Program requirement of A.R.S § 25-352, and presented proof thereof as required. Accordingly,

IT IS ORDERED that both parties shall complete an approved Parent Education Program and file proof of completion thereof with the Clerk of this Court within 6 months of the entry of this Judgment.

III. PATERNITY.

Pursuant to stipulation of the parties,

IT IS HEREBY ORDERED declaring Dewal Tuilefano is the natural and biological father of Noah (DOB: 2/6/2009) born to Vanessa Ashe.

V. CUSTODY, DOMESTIC VIOLENCE, AND PARENTING TIME.

THE COURT FINDS that the parties have one minor child in common: Noah (DOB: 2/6/2009). In accordance with A.R.S. §25-403, the Court finds that it is in the best interest of the minor child for the parties to be awarded joint legal custody of the minor child. The Court finds further that the child will benefit from having both parents actively involved in making major decisions.

IT IS ORDERED:

1. The parties are awarded joint legal custody of the minor child, with Mother having final decision making authority after conferring in good faith with Father.
2. Each party is entitled to full and unrestricted access to all medical, dental, prescription and health related records of the child and may secure information from and consult with all health care professionals providing care of the minor child. Each party shall keep the other party informed of the names, addresses and telephone numbers of all such health care providers. A parent who attempts to restrict the release of documented or information by the custodian without a prior court order is subject to appropriate legal sanction.

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3. Each party is entitled to full and unrestricted access to all school records, teacher, administrators, and other school officials involved in the child's education. Both parents shall be listed as and identified as contact persons on all records. A parent who attempts to restrict the release of documents or information by the custodian without a prior court order is subject to appropriate legal sanction.
4. In the event of any emergency or urgent circumstances involving the child, the party then having physical custody of the child shall inform the other party of the nature of the emergency or urgent circumstance as soon as is reasonably possible.
5. Each party shall have the right to attend and participate in school conferences, activities, and events, extra-curricular activities, and any other similar event in which parents are routinely invited or permitted to attend.
6. Unless restricted by Court order, each party shall keep the other informed of his/her home address, home telephone number, employer and address, work telephone number, and, if applicable, cellular telephone number and e-mail address.
7. The parties shall jointly decide major life decisions concerning their child. Major life decisions include, without limitation, the selection of healthcare providers; dental and medical needs, treatment, and plans; regular and/or special educational needs and plans; mental health needs, treatment, and plans; and, at times, religious training. In making decisions regarding major life decisions concerning the child, each party has an affirmative obligation to (1) confer in good faith with the other party, (2) give equal consideration to the other party's perspective, and (3) work cooperatively with the other party. If the parties decide to seek advice from healthcare professionals or educators, both parties shall be provided with and entitled to such advice before making their decision. If the parties cannot agree after making a good faith effort to come to an agreement regarding a particular issue, Mother shall have "final decision making authority." This level of authority shall allow Mother the right to make a final decision after conferring with Father in good faith. If Father believes that her decision is contrary to the best interests of the child, he shall have the right to seek review thereof through the Court. Father shall have the burden to demonstrate that the decision made by Mother is contrary to the child's best interest. It shall not be sufficient for him to demonstrate that an alternative decision may have also been in the interest of the child.

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8. Neither party shall make derogatory, disparaging, or similarly negative comments about the other party in the presence of the minor child. Neither party shall discuss family law legal proceedings with the child or use the child as a messenger for parenting issues.

IT IS ORDERED that Mother shall be designated as the primary residential parent. Father shall be entitled to the following parenting time with the minor child. Father is currently on bed-rest as a result of an automobile accident on or about May 1, 2012, which left Father with a crushed hip along with other injuries. Father testified that he may be prohibited from returning to work prior to December 1, 2012. Although Father may not be able to return to work until December 1, 2012, his parenting time is scheduled to begin July 20, 2012. If Father is unable to begin exercise parenting time on July 20, 2012, he is obligated to provide Mother with written documentation from his physician regarding his physical limitations that prevent him from exercising parenting time. Therefore, it is ordered, beginning July 20, 2012 and continuing thereafter,

1. Father shall have parenting time every weekend, beginning Friday at 8:30 a.m. and continuing until Sunday at 6:30 p.m. The receiving parent shall provide the transportation; however, Mother agrees that she will provide 100% of the transportation until Father is released to drive. Father agrees to compensation Mother for transporting the child at the start of Father's parenting time. The parties shall meet and confer regarding the amount Father shall pay Mother; however, the amount shall be no less than \$20 and no more than \$40 per month.
2. The holiday scheduled set forth in this paragraph shall take priority over the regular parenting time schedule set forth above:
 - a. Christmas Eve and Christmas Day: Christmas Eve shall be deemed to begin on December 24th at 10:00 a.m. and continue until December 25th at 10:00 a.m. Christmas Day shall be deemed to begin on December 25th at 10:00 a.m. and continue until December 26th at 6:00 p.m. In each even-numbered year, Father shall be entitled to parenting time with the child on Christmas Eve. Mother shall have parenting time with the child Christmas Eve in odd-numbered years. In each odd-numbered year, Father shall be entitled to parenting time with the child on Christmas Day. Mother shall have parenting time with the child on Christmas Day in even-numbered years.
 - b. Thanksgiving: Thanksgiving shall be deemed to begin at 6:00 p.m. on Wednesday night and continue until Friday at 9:00 a.m. Father shall be

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entitled to have parenting time with the child on Thanksgiving in even-numbered years. Mother shall have parenting time with the minor child from Friday at 9:00 a.m. until Sunday at 6:00 p.m. in even-numbered years. Mother shall be entitled to have parenting time with the child on Thanksgiving in odd-numbered years. Father shall have parenting time with the minor child from Friday at 9:00 a.m. until Sunday at 6:00 p.m. in odd-numbered years.

- c. July 4th: July 4th shall be deemed to begin at 9:00 a.m. and continue until 9:00 a.m. on July 5th. Father shall be entitled to parenting time with the child on July 4th in odd-numbered years. Mother shall be entitled to parenting time with the child on July 4th in even-numbered years.
 - d. Easter: Easter shall be deemed to begin at 6:00 p.m. on the Saturday before Easter until 6:00 p.m. on Easter Sunday. Father shall be entitled to parenting time with the child on Easter in even-numbered years. Mother shall be entitled to parenting time with the child on Easter in odd-numbered years.
 - e. Halloween: Mother shall have parenting time with the minor child on Halloween in even-numbered years, and with Father in odd-numbered years. Halloween is defined as beginning at 9:00 a.m. (or after school if Halloween is on a school day and the minor children are in school) on October 31st, until 9:00 a.m. (or return of school) on November 1st.
 - f. Mother's Day and Father's Day: Each year, the child shall be with Mother on Mother's Day from 9:00 a.m. until 6:00 p.m., and with Father on Father's Day from 9:00 a.m. until 6:00 p.m.
 - g. Mother's Birthday and Father's Birthday: Each year, the child shall be with Mother on her birthday from 9:00 a.m. until 6:00 p.m., and with Father on his birthday from 9:00 a.m. until 6:00 p.m.
3. Each party shall have, absent agreement of the parties, one week of vacation time over the summer with the child. The parties will negotiate details of their vacation time at least 30 days in advance. The parties' vacation time cannot interfere with the holiday parenting time of the other parent absent agreement. The party exercising the vacation time shall provide the other party with a written itinerary five (5) calendar days in advance of the vacation, and a telephone number at which the child may be reached during the vacation. Each party shall

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allow the other party reasonable telephone access with the child during the course of the vacation. In the case of a conflict, Mother's preference regarding vacation time (that does not interfere with Father's holiday parenting time) shall prevail in even-numbered years, and Father's preference regarding holiday parenting time (that does not interfere with Mother's holiday parenting time) shall prevail in odd-numbered years.

4. Other than as set forth above, Father shall be responsible for the pick-up of the child at the start of his parenting time assigned (at Mother's home); and, Mother shall be responsible for the pick-up of the child at the end of Father's parenting time (at Father's home).
5. Each party shall allow the other party reasonable telephone access with the child while the child is in his or her physical custody. Such telephone access shall be before the child's ordinary bedtime and may be initiated by either the party or the child. The party having physical custody of the child at the time of the telephone contact shall not listen in, record, or otherwise interfere with the contact.
6. Each party has the right and responsibility to make, during the time that party has physical custody, routine daily decisions regarding the child's care consistent with the major decisions made by the parties as joint legal custodians.
7. If either party disputes or seeks a change in either legal custody or parenting time, that party shall first attempt to resolve the dispute or change through private mediation or mediation provided by Conciliation Services. No petition to modify custody or parenting time shall be considered absent an affirmative statement by the party seeking modification that mediation has occurred and was unsuccessful, except in cases where there is a genuine and imminent threat to the health, safety, or welfare of the child.
8. At least every two years from the entry of this Judgment, the parties shall review the terms of this parenting plan for the purpose of amending the plan in accordance with the needs of the children.
9. The parents are free to deviate from the parenting time schedule by mutual agreement.

VII. CHILD SUPPORT.

The matter is designated as a IVD case and has been set for hearing.

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IT IS ORDERED affirming the Establishment Hearing currently scheduled before Commissioner Ireland on June 4, 2012 at 1:00 p.m. **The Court notes** that, Father appeared by phone at the May 17, 2012 Hearing and Mother has no objection to Father appearing by telephone at the June 4, 2012 Hearing. However, if Father requests to appear by telephone, he shall file a Motion with Commissioner Ireland requesting same.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/s/ Honorable Pamela Gates

Hon. Pamela S. Gates

Judge of the Superior Court

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

Attachments:

DEWAL L TUILEFANO JR.: Current Employer Information